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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,667

02/06/2004

Andreas W. Dreher

OPH.004C1

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7590

06/07/2004

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EXAMINER

HASAN, MOHAMMED A


ART UNIT

PAPER NUMBER

2873

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/773,667	<b>Applicant(s)</b> DREHER, ANDREAS W.	
	<b>Examiner</b> Mohammed Hasan	<b>Art Unit</b> 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 - 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 3, 5 - 13, 16 is/are rejected.
- 7) ☒ Claim(s) 4, 14, 15, 17 - 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/10/2004, 2/6/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

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## **DETAILED ACTION**

### ***Oath/Declaration***

1. Oath and declaration filed on 2/6/2004 is accepted

### ***Information Disclosure Statement***

2. The prior art documents submitted by applicant in the Information Disclosure Statement filed on 3/10/2004 and 2/6/2004 have all been considered and made of record (note the attached copy of form PTO – 1449).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 3, 5, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruns (US 2002/0080464 A1).

Regarding claims 1 and 16, Bruns discloses (refer to figure 8) a lens comprising a first layer a lens having a constant index of refraction (paragraph 0042, wherein the

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lens 232) and a second layer (234) comprising a material having a varying index of refraction and a third layer comprising a second lens, the second layer being sandwiched between the first layer and the third layer (236) and the first and the third layers being configured to substantially correct at least a first aberration of patient's eye and the second layer being configured to substantially correct at least a second aberration of patient's eye. Bruns discloses all of the claim limitations except the lens is an eyeglass lens. However, Bruns discloses that "the present invention can be used to correct aberrations in virtually any optical system (paragraph 0044) and that it can be used with a lens providing positive optical power, or negative optical power, or to correct astigmatism (paragraph 0042). The examiner takes Judicial Notice that it is well known in the art of eyeglass lenses for such lenses to have either positive optical power, or negative optical power, or to correct astigmatism (paragraph 0042). Therefore, it would have been obvious to a person of ordinary skill in the art at the time invention was made to have the lens of Bruns as an eyeglass lens since Bruns discloses that the invention can be used to correct aberrations in virtually any optical system which would make obvious its use in eyeglass lens, a known optical system, and since Burns further teaches that it can be used with a lens providing positive optical power, or negative optical power, or to correct astigmatism and it is well known in the art of eyeglass lenses for such lenses to have either positive optical, or negative optical power, or to correct astigmatism to provide the required corrective needs of the eyeglass user.

Claims 2, 3, 5 and 10, Bruns discloses a lens as disclosed above, but does not specifically disclose that the lens is configured to correct high and lower order

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aberrations along the optical axis of a patient at first and second discrete viewing angles since it is well known in the art of eyeglass lens for the lens to correct for high and low order aberrations to provide the required aberration correction needs of the eyeglass user.

4. Claims 6 - 9, 11 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruns (US 2002/0080464 A1) in view of Onoki (4,883,548).

Regarding claims 6, 8, 13 as applied to claim 1, claim 11 as applied to claim 10, claim 12 as applied to claim 11. Bruns discloses all of the claim limitations except a supervision zoned, a progressive addition lens, a short distance viewing zone and a reading lens comprising a normal vision zone and a super-vision zone. However , Onoki discloses that the eyeglass lens is configured to correct both far vision and reading vision (column 5, lines 25 – 35, column 6, lines 55 – 61, wherein the lens is described as being bifocal or progressive which correct for far vision and reading vision ). Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to provide an eyeglass lens in to the Bruns lenses for the purpose of improved properties an ophthalmic lens as taught by Onoki (column 2, lines 52 – 57).

#### ***Allowable Subject Matter***

5. Claims 4, 14, 15, 17 – 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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6. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to show, the first aberration of the patient's eye is selected is a high order aberration, first lens is a lens blank, the second lens is a lens blank, third layers correct the first portion of the aberration of the patient's eye to within .25 diopters.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The closest prior art

Merle (4,969,729) discloses composite plastic lens having a positioned optical axis and method of making the same.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammed Hasan whose telephone number is (571) 272-2331. The examiner can normally be reached on M-TH, 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (571) 272- 2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MH  
May 29, 2004

A handwritten signature in black ink, appearing to read "Scott J. Sugarman". The signature is stylized with large, flowing loops and a prominent "S" at the beginning.

**Scott J. Sugarman**  
**Primary Examiner**